

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
	:	
SUNEDISON, INC., et al.,	:	Case No. 16-10992 (SMB)
	:	
Debtors.¹	:	(Jointly Administered)
	:	
	:	

**STIPULATION AND AGREED ORDER AMONG DEBTORS, OFFICIAL
COMMITTEE OF UNSECURED CREDITORS, TERRAFORM POWER, INC.,
TERRAFORM GLOBAL, INC. AND SECURED LENDERS REGARDING
PRESERVATION OF PRIVILEGE**

This Stipulation and Agreed Order Among Debtors, Official Committee of Unsecured Creditors, Terraform Power, Inc., Terraform Global, Inc. and Secured Lenders Regarding Preservation of Privilege (this “**Stipulation and Order**”) is made as of January 16, 2017, by and among SunEdison, Inc. and certain of its affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, and with their professionals and advisors, “**SunEdison**” or the “**Debtors**”), the Official Committee of Unsecured Creditors (with its professionals and advisors, the “**Creditors’ Committee**”), TerraForm Power, Inc. (“**TERP**”) and TerraForm Global, Inc. (“**Global**,” and together with TERP, and with their respective

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s tax identification number are as follows: SunEdison, Inc. (5767); SunEdison DG, LLC (N/A); SUNE Wind Holdings, Inc. (2144); SUNE Hawaii Solar Holdings, LLC (0994); First Wind Solar Portfolio, LLC (5014); First Wind California Holdings, LLC (7697); SunEdison Holdings Corporation (8669); SunEdison Utility Holdings, Inc. (6443); SunEdison International, Inc. (4551); SUNE ML 1, LLC (3132); MEMC Pasadena, Inc. (5238); Solaicx (1969); SunEdison Contracting, LLC (3819); NVT, LLC (5370); NVT Licenses, LLC (5445); Team-Solar, Inc. (7782); SunEdison Canada, LLC (6287); Enflex Corporation (5515); Fotowatio Renewable Ventures, Inc. (1788); Silver Ridge Power Holdings, LLC (5886); SunEdison International, LLC (1567); Sun Edison LLC (1450); SunEdison Products Singapore Pte. Ltd. (7373); SunEdison Residential Services, LLC (5787); PVT Solar, Inc. (3308); SEV Merger Sub Inc. (N/A); Sunflower Renewable Holdings 1, LLC (6273); Blue Sky West Capital, LLC (7962); First Wind Oakfield Portfolio, LLC (3711); First Wind Panhandle Holdings III, LLC (4238); DSP Renewables, LLC (5513); Hancock Renewables Holdings, LLC (N/A); EverStream HoldCo Fund I, LLC (9564); Buckthorn Renewables Holdings, LLC (7616); Greenmountain Wind Holdings, LLC (N/A); Rattlesnake Flat Holdings, LLC (N/A); Somerset Wind Holdings, LLC (N/A); SunE Waiawa Holdings, LLC (9757); SunE MN Development, LLC (8669); SunE MN Development Holdings, LLC (5388); SunE Minnesota Holdings, LLC (8926); and TerraForm Private Holdings, LLC (5993). The address of the Debtors’ corporate headquarters is 13736 Riverport Dr., Maryland Heights, Missouri 63043.

professionals and advisors, the “**Yieldcos**” and each, a “**Yieldco**”), and the SunEdison DIP Agent and DIP Arrangers and the Ad Hoc Group of SunEdison Tranche B Lenders and Second Lien Creditors (collectively, and with their respective professionals and advisors, the “**Secured Lenders**”) (collectively, the “**Parties**”).

WHEREAS, on or after April 21, 2016,² each of the Debtors filed with the United States Bankruptcy Court for the Southern District of New York (the “**Court**”) a voluntary petition for relief under chapter 11 of the Bankruptcy Code;

WHEREAS, on April 29, 2016, the United States Trustee for the Southern District of New York appointed the seven member Creditors’ Committee pursuant to section 1102(a)(1) of the Bankruptcy Code [Docket No. 148];

WHEREAS, on November 7, 2016, the Creditors’ Committee filed a *Motion of Official Committee of Unsecured Creditors for (I) Leave, Standing and Authority to Commence and Prosecute Certain Claims and Causes of Action on Behalf of Debtors’ Estates and (II) Settlement Authority* [Docket No. 1557] (the “**Standing Motion**”) seeking, among other things, leave, standing and authority to prosecute certain claims and causes of action against the Yieldcos;

WHEREAS, on November 29, 2016, the Debtors and the Yieldcos filed objections to the Standing Motion [respectively, Docket Nos. 1687 and 1684] and the DIP Agent filed a joinder in the Debtors’ objection [Docket No. 1690] (collectively, the “**Objections**”);

WHEREAS, on December 22, 2016, the Court held an evidentiary hearing (the “**Hearing**”) on the Standing Motion and the Objections;

WHEREAS, the Creditors’ Committee, the Debtors, the Secured Lenders and the Yieldcos have agreed to adjourn further proceedings on the Standing Motion and the Objections

² The Debtors filed on April 21, 2016, June 1, 2016, July 20, 2016, August 9, 2016, August 10, 2016, and December 16, 2016, respectively.

pending further discussions among the Parties regarding, among other things, sharing of information;

WHEREAS, this Stipulation and Order relates to information sharing as certain of the parties finalize other terms;

NOW, THEREFORE, it is stipulated and agreed by and among the Parties, subject to approval by the Court, as follows:

1. In connection with the negotiation (including, without limitation, any proposal or counter-proposal) or consideration of any settlement, release or other resolution of any pre- or post-petition claims or causes of action concerning the Yieldcos, to the extent that (i) the Debtors provide any information subject to a claim of privilege (attorney-client, work product, common interest or otherwise) ("**Common Interest Material**") to the Secured Lenders or the Creditors' Committee, (ii) the Secured Lenders provide Common Interest Material to the Debtors or the Creditors' Committee, or (iii) the Creditors' Committee provides Common Interest Material to the Debtors or the Secured Lenders, pursuant to this Stipulation and Order, that shall not constitute a waiver of any privilege applicable thereto, and none of the Creditors' Committee, the Secured Lenders, the Yieldcos, or any other party in interest may challenge such privilege or argue that there has been a waiver of privilege on the ground that the Debtors, the Creditors' Committee and/or the Secured Lenders have provided Common Interest Material to each other.

2. By their signature hereto, each of the undersigned (a) represents that it has been duly authorized to enter into this Stipulation and Order, and (b) requests that the Court approve and so order this Stipulation and Order.

3. This Stipulation and Order may not be modified other than by a signed writing executed by the Parties hereto.

4. This Stipulation and Order may be signed in counterpart originals as if signed in one original document.

5. This Stipulation and Order will be effective upon approval by the Court.

6. The Court shall retain jurisdiction with respect to all matters arising under or related to this Stipulation and Order, including, without limitation, any disputes that may arise between or among the Parties, and to interpret, implement, and enforce the provisions of this Stipulation and Order.

Dated: January 16, 2017
New York, New York

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IT IS SO ORDERED:

Dated: **January 24, 2017**

New York, New York

/s/ STUART M. BERNSTEIN

HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE